

B R E W E R
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September 3, 2021

VIA ELECTRONIC FILING

Honorable A. Joe Fish
Senior Judge of the U.S. District Court,
Northern District of Texas (Dallas)
1100 Commerce Street, Room 1404
Dallas, Texas 75242-1003

Re: *National Rifle Association of America v. Ackerman McQueen, Inc., et al.*,
No.3:19-cv-02074 (N.D. Tex.)

Dear Judge Fish:

Further to recent correspondence, the NRA writes to correct and clarify one item in its Report on Outstanding Discovery Issues submitted to the Court on August 31, 2021 (ECF No. 342) (the “NRA Status Report”). In Section A.3 of the Status Report, the NRA describes a longstanding concern with Defendants’ overuse of the “Highly Confidential” designation pursuant to the parties’ protective order—which, at Defendants’ insistence, precludes the NRA’s counsel, William A. Brewer III, from reviewing documents designated Highly Confidential. The Status Report and one enclosed exhibit (Exhibit A-7) provide examples of documents for which the Highly Confidential designation is particularly impracticable. One such example, listed in error, was the report of Defendants’ damages expert, Dan Jackson.

The NRA writes to correct the record and clarify that after this designation was challenged by the NRA for the second time in June 2021, Ackerman acceded to a “Confidential” designation for Jackson’s report. The document is currently designated “Confidential.” However, the NRA respectfully notes that the parties’ dispute over Defendants’ use of the “Highly Confidential” designation remains an issue in this case, and the inability of counsel to review other documents designated “Highly Confidential” impedes the NRA’s trial preparation. At present, thousands of documents remain designated “Highly Confidential,” including documents for which Defendants have articulated no specific competitive sensitivity. As set forth in the NRA Status Report, this is one of several issues on which the NRA respectfully seeks the Court’s guidance.

Sincerely,

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